



Department of General Services
Procurement Division
707 Third Street, Second Floor
West Sacramento, California 95605

MASTER SERVICES AGREEMENT EMERGENCY DEBRIS REMOVAL SERVICES USER INSTRUCTIONS

CONTRACTOR:	VARIOUS
CONTRACT NUMBERS:	VARIOUS
CONTRACT TERM:	VARIOUS through October 31, 2008.
SERVICE:	WASTE/DEBRIS REMOVAL SERVICES Southern California Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura,
DISTRIBUTION CODE:	Electronic version of all documents associated with this MSA can be found on the DGS/PD Internet web page: http://www.pd.dgs.ca.gov/masters/default.htm
USER INSTRUCTIONS ISSUE DATE AND EFFECTIVE DATE:	October 31, 2007

Any questions regarding this MSA shall be directed to the contract administrator:

Department of General Services
Procurement Division, Multiple Award Program
Peggy Adams, Supervisor
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West Sacramento, CA 95605
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Skip Ellsworth, Manager, Multiple Award Program

10/31/2007

Date

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INTRODUCTION AND OVERVIEW

The Emergency Debris Removal Master Services Agreement (MSA) has been established in response to the October 2007 Fires in Southern California and the Governor's Executive Order S-13-07 <http://gov.ca.gov/executive-order/7927/>.

This Emergency Debris Removal MSA provides State and local government agencies with a listing of contractors who can provide a variety of emergency waste/debris removal services. A local government agency is defined as any city, county, city and county, district, or other local governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges empowered to expend public funds. While the State of California makes this MSA available to local government agencies, each local agency should determine if using these contracts is consistent with its procurement policies and regulations.

Note: Using this MSA does not automatically assure reimbursement of costs under a federal grant (e.g., FEMA).

When using this contract, ordering Agencies should consider the following;

- **CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CIWMB)
GUIDELINES FOR DEBRIS REMOVAL**
[HTTP://WWW.CIWMB.CA.GOV/LGLIBRARY/DISASTER/](http://www.ciwmb.ca.gov/LGLibrary/Disaster/)
- **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) DEBRIS
MONITORING REQUIREMENTS**
http://www.fema.gov/government/grant/pa/debris_main.shtm
- **US ENVIRONMENTAL PROTECTION AGENCY (EPA)**
<http://www.epa.gov/epaoswer/non-hw/muncpl/debris.htm>

A. STATE CONTRACT ADMINISTRATOR

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e-mail: peggy_adams@dgs.ca.gov

B. CONTRACTOR REQUIRED CERTIFICATIONS & LICENCES

1. ILLNESS AND INJURY PREVENTION PROGRAM (IIPP)

The Contractor shall have a current company IIPP that meets the requirements of 29 CFR 1910.120(b). The IIPP shall apply to all employees involved in the Agreement. Each subcontractor involved in the Agreement shall also have a current company IIPP.

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The Contractor shall at all times, be responsible for the protection of its employees and the public.

Prior to site entry, the Contractor shall ensure that:

- Adequate work planning, health and safety, and operating procedures have been accomplished;
- All personnel have been properly trained and briefed in hazards and procedures for the site to be entered;
- Equipment and materials are on-hand to safely and efficiently complete the work; and
- Proper site access authorization has been obtained.

2. All other applicable Local, State and Federal Licenses associated with Waste/Debris removal including but not limited to:

LOCAL PERMITS, LICENSES & FILINGS	REGULATOR OR ISSUER
Authority to Construct/Permit to Operate	Air Quality Management District
Building Construction Permit	City or County
Business License	City or County
Fictitious Business Name Filing	County
Land Use Permit/Zoning Clearance/Conditional Use Permit	City or County
Permit By Rule (PBR) for Permanent HHW Facilities or Temporary Collection Events	City, County or Cal/EPA-DTSC
Waste Hauler Permit	City or County
STATE PERMITS, LICENSES & FILINGS	
Antifreeze, Battery, Oil & Paint (ABOP) Notification	CUPA or Cal/EPA-DTSC
Corporate, Company or Partnership Filings	Ca. Secretary of State
Hazardous Waste Haulers Permit	Cal/EPA – DTSC
Industrial Activities Storm Water General Permit	Cal/EPA – SWRCB
Non-Profit Organization 501 (C) (3)	Ca. Secretary of State
Prop. 65 Safe Drinking Water & Toxic Enforcement Act	Cal/EPA – OEHA
Solid Waste Facilities Permit	Cal/EPA – CIWMB
State EPA Identification Number	Cal/EPA – DTSC
Waste and Used Tire Hauler Registration	Cal/EPA – CIWMB
Waste Discharge Requirements	Cal/EPA – SWRCB
Waste Tire Facilities Permit	Cal/EPA – CIWMB
FEDERAL PERMITS, LICENSES & FILINGS	
US EPA – Identification Number	US EPA
US EPA – NPDES and/or NSR Permits	US EPA

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C. SERVICE CATEGORIES FOR SOLID WASTE/DEBRIS REMOVAL

- **Non-Hazardous**
- **Hazardous**
- **Land including, Urban, Suburban, Rural/Forestry, Other**
- **Marine**

D. MSA ORDER LIMITS

In accordance with PCC §10340, in an emergency, state departments may contract for remedial services without regard to spending limits.

E. EMERGENCY CONTRACT TYPES:

There are three contracts typically used in obtaining disaster debris services

- **Time and material contract**
- **Unit price contract**
- **Lump sum contract**

1. TIME & MATERIAL CONTRACTS

This MSA initially provides for time and material contract pricing.

Time and material contracts should only be used:

- during the first 100 hours of the recovery operation to perform emergency life saving debris clearance, and
- only after all available local and State government equipment has been committed.

a. CONTRACT PROVISIONS: The contract should clearly state that:

- the price for the equipment applies only when the equipment is operating;
- the jurisdiction reserves the right to terminate the contract at its convenience;
- the jurisdiction does not guarantee a minimum number of hours; and
- there is a cost ceiling for total work performed.

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TIME AND MATERIAL CONTRACTS hourly rates		
Advantages	Disadvantages	Recommendations
Extremely flexible, not scope dependent	Contractor must be directed as to what work to perform	Seek competitive bids or negotiate reasonable hourly rates for equipment with operations.
Wide range of uses	Required full-time inspectors	Specify equipment as generically as possible to encourage competition.
Great for emergency "Hot Spots" and early debris right-of-way clearance	Requires documentation of actual hours worked by equipment and operators	Train inspectors on documentation requirements for time-and-material contracts.

PRICING/RATES FOR TIME AND MATERIAL

b. LABOR RATES

Labor rates are to be negotiated by ordering State agency or local government. During negotiation, labor and equipment rates will be determined for Contractors and subcontractors. The Contractor will be compensated for the cost of workers used in the actual and direct performance of the work. To the total of the direct costs computed as provided in the following subsection "Actual Wages," there will be added a markup to be negotiated, **but not to exceed 33 percent.**

No markup shall be added to costs computed as provided in the following subsections, "Labor Surcharge" and "Subsistence and Travel Allowance." Compensation for prevailing wage employees shall be made at the appropriate rate for each classification as determined by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1.

The cost of labor will be the sum of the following:

- **Actual Wages:** The actual wages paid shall include any employer payments to or on behalf of the workers for health and welfare, pension, vacation and similar purposes.
- **Labor Surcharge:** To the actual wages, as defined in the above subsection, "Actual Wages," a labor surcharge will be added as set forth in the [Department of Transportation publication entitled Labor Surcharge and Equipment Rental Rates](#), which is in effect on the date upon which the work is accomplished. Said labor surcharge shall constitute full compensation for all payments imposed by State and federal laws and for all other payments made to, or on behalf of,

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the workers, other than actual wages as defined above and subsistence and travel allowance as follows.

- Subsistence and Travel Allowance: The actual subsistence and travel allowance paid to workers shall be negotiated.

c. EQUIPMENT RATES

Equipment rates are to be negotiated by Ordering State agency or local government but not to exceed the percentages identified below.

(1) CONTRACTOR-OWNED EQUIPMENT

Contractor-owned equipment will be paid for at the rates listed for such equipment in the [Department of Transportation publication entitled Labor Surcharge and Equipment Rental Rates](#), which is in effect on the date upon which the work is accomplished, plus a markup to be negotiated, **but not to exceed 15 percent**. Rates paid for equipment shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals.

(2) RENTAL EQUIPMENT

Rental equipment may be warranted for remediation of certain sites. A markup to be negotiated, **but not to exceed 15 percent**, will be allowed for this equipment.

(3) SUBCONTRACTORS

When subcontractors are required in performance of the work and have been approved in the Work Order, the Contractor will be compensated for invoiced cost of the services plus a markup to be negotiated, **but not to exceed 10 percent**. This markup shall reimburse the Contractor for profit and additional administrative costs, and no other additional payment for performance of work by a subcontractor will be made under this Agreement.

(4) NON-HAZARDOUS MATERIAL TRANSPORT AND DISPOSAL

A markup to be negotiated, **but not to exceed 10 percent**, will be allowed for approved transport and disposal charges.

(5) HAZARDOUS MATERIAL TRANSPORT AND DISPOSAL

A markup to be negotiated, **but not to exceed 10 percent**, will be allowed for approved transport and disposal charges for these materials.

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2. UNIT PRICE CONTRACT

The Unit Price and Lump Sum contracts are recommended after the immediate response phase.

The Unit Price Contract utilizes construction units and prices for these units to develop line item costs and total contract cost.

Scope of work: The Unit Price Contract is used when:

- the scope of work may be defined, and
- generally quantified by actual field measure, (e.g., 200 cubic yards of sand, 10 tons of rubble, 7 trees, etc.).

Bottom line: The total "bottom line" of the contract may increase or decrease depending upon the accuracy of the unit quantity.

For this reason, it is as important to properly estimate units as it is to estimate unit cost.

Use accurate units: The unit used in the Unit Price Contracts must be as accurately estimated as units possible; otherwise, the final bottom line amount of the contract will be significantly different from the contract bid received at the bid opening.

UNIT PRICE CONTRACTS cubic yard		
Advantages	Disadvantages	Recommendations
Flexible, intervention will not change contract conditions.	Full-time (specially trained) field inspectors required.	For quantities less than 50,000 CY, monitor loading of trucks and log in data such as CY and truck. Check site to verify placement.
Accurate account of actual quantities removed.	Contractor fraud, if loading and dumping are not closely monitored.	For quantities over 50,000 CY, recommend a documentation format (ticket).
Wide range of competition because of simplicity of contract.	Segregation of debris will complicate contract.	
Low contractor risk.	Trucks must be measured and numbered.	

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Payment under unit price contract

Load ticket: Payment under a unit price contract is normally made on the basis of a load ticket.

- Load tickets should be treated as accountable forms. The operations office should know what forms have been issued, how many have been issued and to whom.

3. LUMP SUM CONTRACT

The Lump Sum Contract establishes a total contract price by a one item bid from the contractor. For this type of contract, the price for the work is fixed unless there is a change in the scope of work to be performed. The bottom line of the contract is not in question as it is with the Unit Price Contract.

Scope of work: If the scope of work is not well defined, this method of contracting puts the responsibility of the quantity estimate and the definition of the scope of work on the shoulders of the contractor bidding the project.

Consequently, experience has shown that the contractor will pass this burden back to the owner in the form of contingencies which will be incorporated into the bid price.

When to use: As mentioned before, the Lump Sum Contract should be used only when the scope of work is clearly defined and the areas of work can be specifically quantified.

LUMP SUM CONTRACTS		
Area Method		
(debris removal based on a defined area)		
Advantages	Disadvantages	Recommendations
Minimum labor required for management.	Must have a clear definable scope of work that can be quantitatively measured by the contractor.	Use any time scope of work is clearly definable.
Contractor shoulders most of the risk.	Often difficult to quantify what debris will be brought to the right-of-way for removal.	
Quantities do not have to be documented as in a unit price contract.	High probability of claims if debris estimates are difficult to estimate and require speculation.	

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LUMP SUM CONTRACTS Pass Method (based on a specified number of passes through the disaster area)		
Advantages	Disadvantages	Recommendations
Minimum labor required for management.	Must have accurate, up-to-date plans and information on all roads that will be included in the "pass" scope of work.	Provide three to four passes depending on the magnitude of the disaster.
Defines scope better than area method and decreases the risk of claims caused by quantity speculation.	Public must cooperate in the removal process.	Solicit a price for each pass and a total job price.
Quantities do not have to be documented as in a unit price contract.	Contracting agency must be successful in communicating with the public in the removal area.	Clearly define any debris segregation requirements, road locations by detailed scaled maps, time lapse between passes, and required time frame to complete each pass.

F. CIWMB SAMPLE PROJECT SPECIFICATION AND CONTRACTS

1. Project Specifications

The document [*Project Specifications for the Angora Fire Structural Debris Removal--Lake Tahoe, California*](#) (Adobe PDF, 386 KB, dated July 16, 2007), is one of two structural debris removal plans prepared by CIWMB for El Dorado County.

The [right-of-entry permit](#) (Adobe PDF, 159 KB) allows counties, cities, and state agencies to proceed with cleanup on privately owned properties.

2. Sample Contracts/Templates

This CIWMB website contains information on and examples of debris management contracts

<http://www.ciwmb.ca.gov/Disaster/DisasterPlan/ChapSums.htm#chapterfive>

G. PAYMENT

Except in the event of an emergency as provided in Section GC §927.11, ordering agencies must comply with GC §927 and pay undisputed invoices within the required 45 days.

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State agencies also may make progress payments to contractors for work performed until the final deliverable is received and accepted. If progress payments are included in the agency's order, the agency shall retain ten percent (10%) of fees billed pending completion of the entire project (PCC §10346 and §12112).

H. DGS ADMINISTRATIVE FEE

There is no administrative fee associated with this contract.

I. PROJECT RELATED EXPENSES

As negotiated between agency and contractor and included in the purchase order, or as otherwise stipulated in the contract.

J. TERM OF MSA

The term of this MSA is **October 31, 2007** through **October 31, 2008**.

K. FINANCIAL SECURITY

1. Progress Payments/Performance Bonds

The ordering agency at its discretion may allow progress payments if applicable in their contract utilizing this MSA. Any contract for non-information technology services (Public Contract Code §10346) may provide for progress payments to contractors for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the contract amount shall be withheld pending final completion of the contract. However, if the contract consists of the performance of separate and distinct tasks, then any funds so withheld with regard to a particular task may be paid upon completion of that task.

For projects/contracts/orders issued under this MSA, the contractor may be required to post a performance bond in the name of the ordering agency. The ordering agency shall identify this requirement in the order. If so required, the contractor shall submit a faithful performance bond, acceptable to the ordering agency, in a sum not less than one-half of the total amount payable under the contract securing the faithful performance of the contract by the contractor. The bond shall be furnished to the ordering agency, at no cost to the ordering agency. The bond shall be on a form from an admitted surety insurer and must guarantee contractor's compliance with the terms of the contract/order with the ordering agency. The bond shall be purchased prior to commencement of work.

2. Liability Insurance

Contractor shall furnish to the State a certificate of insurance stating that there is liability insurance presently in effect for the contractor of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined.

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The certificate of insurance must include the following provisions:

- a. The insurer will not cancel the insured's coverage without 30 days prior written notice to the State;
- b. The State of California, its officers, agents, employees, and servants are included as additional insured, but only insofar as the operations under this contract are concerned.
- c. The State will not be responsible for any premiums or assessment on the policy.

Contractor agrees that the liability insurance herein provided for shall be in effect at all times during the term of this contract (including all MSA contracts/orders executed with ordering agencies). In the event said insurance coverage expires at any time during the term of this contract, Contractor agrees to provide at least 30 days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one year. New certificates of insurance are subject to the approval of the Department of General Services, and Contractor agrees that no work shall be performed prior to approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies, terminate this contract.

3. Workers Compensation

Contractor shall furnish to the State a certificate of insurance stating that there is Workers' Compensation insurance on all of its employees who will be engaged in the performance of this agreement.

The certificate of insurance must include the provision that the insurer will not cancel the insured's coverage without 30 days prior written notice to the State.

Ordering departments should request a copy of the proof of Workers Compensation Insurance at the time of order placement to ensure Workers Compensation Insurance is current.

NOTE: The State will not be responsible for any premium or assessments on the policy.

L. FEDERAL DEBARMENT

The Federal Department of Labor requires State departments that are expending Federal funds of \$25,000 or more to have a certification by the supplier that they have not been debarred or suspended from doing business with the Federal Government in the contract file. Each Contractor must provide this documentation upon request.

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M. REPORTING REQUIREMENTS FOR ORDERING DEPARTMENTS

In accordance with PCC §10340, Departments may contract for emergencies regardless of dollar limits. The department must submit the Notice of Contract Award (NCA) within 5 working days of award. If the emergency purchase is required to be made by the department in response to a natural disaster (earthquake, fire, flood, etc.) the department must submit the NCA within 20, rather than 5 working days.

N. ORDERING PROCEDURES

These instructions are designed to help the ordering department with the procurement selection of a contractor.

In addition to procedures listed in this user guide, the ordering department must follow established state and/or local agency policies and procedures, the DGS/OLS State Contracting Manual and the ordering agency's internal contract procedures when considering service needs.

Budget Details and Payment Provisions will be negotiated by ordering agency and contractor, in accordance with the Governor's EXECUTIVE ORDER S-13-07 which states,

State agencies shall expeditiously enter into contracts and arrange for the procurement of materials, goods, and services necessary to quickly remove dangerous debris, repair damaged resources, and restore and protect the impacted watershed. Because strict compliance with the provisions of the Government Code and the Public Contract Code applicable to state contracts would prevent, hinder, or delay these efforts, applicable provisions of those statutes, including, but not limited to, advertising and competitive bidding requirements, are suspended to the extent necessary to address the effects of this emergency.

and

PCC 10340 in which Departments may contract for emergencies regardless of dollar limits.

O. ORDERING PROCEDURES AND CONTRACT DISTRIBUTION

1. Order Form

State Agencies award will be made using a Standard Agreement 213, refer to Section VI, Forms and Samples. The Project Specifications and Work Orders should be attached to the Std. 213.

Local governments shall, in lieu of the State's Services Agreement (Std. 213), use their own purchase order document or appropriate emergency purchase document.

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P. FILE DOCUMENTATION

In accordance with the Governor's EXECUTIVE ORDER S-13-07 which states,

"Because strict compliance with the provisions of the Government Code and the Public Contract Code applicable to state contracts would prevent, hinder, or delay these efforts, applicable provisions of those statutes, but not limited to, advertising and competitive bidding requirements, are suspended to the extent necessary to address the effects of this emergency."

To the extent possible, State Agencies should make every effort to follow the following administrative and file documentation requirements for non-IT service contracts:

1. Project Specifications and Work Plans
2. Contractor's MSA contract including the rate schedules (i.e. Time and Material, Unit Price, Lump Sum)
3. Financial Information/Bond, if applicable
4. Secretary of State Certification
5. Certificate of Liability Insurance greater than \$1,000,000 if federal funds are used
6. Federal Debarment certification signed by the contractor that they have not been suspended from doing business with the Federal Government
7. Workers Compensation Liability Insurance
8. Payee Data Record STD 204
<http://www.documents.dgs.ca.gov/osp/pdf/std204.pdf>
9. California S/B or DVBE certification, if applicable
10. Before awarding a consulting services contract, of \$5,000 or more, an agency must request a copy of any negative evaluations from DGS/OLS. (PCC § 10371.). To avoid possible delays in approvals of contracts submitted to DGS, the awarding agency should document the review of the negative evaluations in the space provided on form STD 215.
11. Standard Agreement 213 along with an Agreement Summary 215
<http://www.ols.dgs.ca.gov/contracting+info/formsandinstructions.htm> including the SOW, Department Billing Code, Leverage Procurement Agreement number, Delegation number, and supporting documentation. Copies of all said documents must be sent to the Department of General Services, Procurement Division, Master Agreement Unit. A STD 65 is not permissible

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12. Contract Award Report STD 16

<http://www.documents.dgs.ca.gov/osp/pdf/std016.pdf>

13. Contract/Contractor Evaluation (STD4)

<http://www.documents.dgs.ca.gov/osp/pdf/std004.pdf>

Should occurrences of either outstanding performance or poor performance be encountered the DGS Procurement Division Contract Administrator should be notified. The contract shall have the option of reviewing any such submitted performance reports and evaluation.

R. REPORTING REQUIREMENTS FOR ORDERING DEPARTMENTS

1. Upon completion of the project, the State Agencies shall complete the MSA Contract Performance Report in Section VI, FORMS. The completed form should be sent to the MAPS MSA Contract Administrator. Ordering departments may also use the Contract/Contractor Evaluation Form (STD. 4).
2. If the contractor's performance is unsatisfactory, the ordering department must send a copy of the completed Std. 4 to the DGS, Office of Legal Services within five (5) days after the completion of the evaluation. The contractor must be notified and sent a copy of the unsatisfactory Std. 4 evaluation by the ordering department within fifteen (15) days after its completion.
3. Effective January 1, 2001, departments must report specific information on independent sole proprietor contractors to the Employment Development Department (EDD) as required by Unemployment Insurance Code §1088.8. The information must be reported within twenty (20) days of entering into a contract for \$600 or more, or if there is no contract, within 20 days of when the payments total \$600 or more in any calendar year, whichever occurs sooner. For assistance in reporting to EDD, please call 916-657-0529, the EDD Tax Branch, Accounts Services Group.